WHITE PAPER

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From Engineered Coastlines to Courtroom Warfare: How the 2015 Beach Renourishment Failure Catalyzed Walton County's Customary Use Crisis

Executive Summary

In 2015, the Walton County Tourist Development Council (TDC), under the leadership of Executive Director Jim Bagby, spearheaded an ambitious $53.9 million initiative in tandem with the U.S. Army Corps of Engineers (USACE) known as the **Walton County Hurricane & Storm Damage Reduction Project**. Designed to protect 18 miles of vulnerable coastline along the CR-30A corridor, the project required securing construction and access easements from over 1,000 beachfront property owners.

Rather than executing a unified, legally robust campaign to secure these properties, the administration's strategic framework validated property owner anxieties regarding federal overreach and perpetual land-use rights. By structuring the enrollment process as entirely voluntary and publicly aligning with homeowner concerns against federal mandates, the administration failed to achieve the contiguous mileage required by the USACE. This tactical misstep resulted in a landslide rejection of the project, forcing the Board of County Commissioners (BCC) to permanently shelf the initiative in March 2016.

The collapse of the 2015 beach restoration project did not merely delay sand placement; it served as the direct catalyst for the decade-long "Customary Use" (CU) legal warfare that fractured Walton County. Deprived of a federal engineering solution to expand public beach real estate, local government pivoted to regulatory mandates, initiating a chain reaction of local ordinances, state-level legislative interventions, and unprecedented parcel-by-parcel litigation that continues to govern the coastline today.

I. Background: The 2015 Federal Beach Restoration Initiative

In 2013, Jim Bagby was appointed Executive Director of the Walton County Tourist Development Council (TDC), inheriting a coastal management landscape suffering from escalating storm erosion. The centerpiece of his administration's environmental and economic

preservation strategy was the Walton County Hurricane & Storm Damage Reduction Project. [1]

Financial and Structural Design

The proposed 50-year project was a cost-shared venture between the federal government, the state of Florida, and local county matches. Bagby fiercely defended the financial viability of the local portion, championing the utilization of the county's "third cent" of the bed tax (Tourist Development Tax) as a dedicated, self-sustaining revenue stream to fund the multi-million dollar local obligation without relying on volatile state matching grants.[2]

The Easement Hurdle

To deploy heavy dredging machinery and establish an engineered dune system, the USACE and local contractors required physical access to private property along the shoreline. In the summer of 2015, the TDC rolled out an administrative campaign, sending over 1,000 certified mail packages containing easement agreements to oceanfront property owners. The USACE established a strict requirement: the project could not proceed unless the county secured an unbroken, contiguous chain of properties to ensure engineering feasibility.

II. Administrative Miscalculation: Siding with the Opposition

The central mechanism behind the failure of the 2015 beach restoration project was the administration's strategy of public conciliation and validation of homeowner anxieties, rather than aggressive defense of the federal guidelines required to execute the project.

1. Validation of the "Perpetual" Clause Anxieties

The USACE rigidly mandated that all construction easements be **perpetual** to guarantee continuous government access for successive renourishments over the 50-year project lifecycle. Frontline property owners viewed this permanent land-use dedication as an unconstitutional regulatory taking.

Instead of projecting a unified front alongside federal partners to re-frame the permanent easement as necessary infrastructure protection, Bagby publicly broke ranks with USACE parameters. He openly stated during public workshops that he had aggressively argued against making the easements permanent, but that the federal government was unyielding. By publicly declaring the federal mandate to be problematic, the administration legitimized homeowner resistance. Property owners reasoned that if the head of the TDC viewed a perpetual

[1] *U.S. Army Corps of Engineers (USACE) Project Authorization Metrics (2014–2015 updates)*. Defuniak Herald

[2] Authorized the 18-mile project footprint along the CR-30A corridor with an initial construction cost valuation of **$53.9 million**, and a 50-year structural life cycle estimated at **$220.1 million**. Cost-split parameters dictated local funding responsibility at approximately 58%, with USACE absorbing 24% and the Florida Department of Environmental Protection (FDEP) matching 18%. Public records of the Walton County Tourist Development Council (TDC) under Executive Director Jim Bagby outline the allocation of the "third cent" (or one penny) of local bed tax collections explicitly dedicated to bankrolling the local project match.

easement as bad policy, signing the document was a distinct risk to their private property rights.

2. Institutionalizing Non-Compliance

To ease localized political tensions, the administration instituted a policy of passive, risk-free non-compliance. Bagby explicitly assured anxious homeowners that the enrollment process was entirely voluntary and that leaving the notification package unreturned would be treated strictly as a "No" vote rather than a tacit or forced approval.[3]

While politically expedient in the short term, this strategy removed any sense of urgency or consequence for landowners. It provided a passive mechanism to defeat a major public infrastructure project simply through non-action.

3. The Collapse by the Numbers

The administrative framework yielded catastrophic metrics when the response deadline closed on January 31, 2016:

- Out of more than 1,000 certified packages mailed, roughly **500 owners failed to respond entirely** (automatically counted as rejections under the administration's guidelines).[4]
- Of the 511 property owners who actively returned the documentation, **87.5% explicitly voted "NO"**, refusing to sign the easement.
- Only 12.5% of active respondents consented.[5]

Faced with a highly fragmented, non-contiguous patchwork of property permissions, the county legal staff reported that the project was mathematically and structurally impossible to execute under USACE rules. On **March 8, 2016**, the Walton County Board of County Commissioners officially voted to table and shelf the initiative.

III. The "White Sand" Lawsuit: Proving the Vulnerability of County Policy

The administration's inability to establish absolute legal and public confidence in the restoration project opened the door to immediate judicial intervention. In October 2015, while the easement collection window was actively open, a coalition of private beachfront property owners filed a federal lawsuit against Walton County.[6]

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[3] The Easement Mail-Out and March 2016 Project Demise, *Official Minutes and Presentations of the Walton County Board of County Commissioners (BCC) Regular Meeting, March 8, 2016*.

[4] Formal presentation by Assistant County Attorney Sidney Noyes tracking the summer 2015 mail-out of construction easement packages to slightly over 1,000 beachfront property owners.

[5] Records confirm that by the January 31, 2016 deadline, only 511 total packages were returned. Of those returned, **87.5% were active "No" votes** (refusals to sign), while only 12.5% were "Yeses". This structural lack of contiguous mileage forced the official motion to shelf the project.

[6] *Lionel D. Alford, Jr. and Tammy Nix Alford, as Co-Trustees v. Walton County Board of County Commissioners*, Case No. 3:15-cv-00142, U.S. District Court for the Northern District of Florida (Pensacola Division).

The plaintiffs leveraged the county's own **White Sand Protection Restrictions**[7] within the local Land Development Code (LDC), arguing that the USACE planned to dredge up dark, shell-laden silt that would permanently degrade the pristine quality of 30A's powdery white beaches.
The county legal department defended the project by asserting that the LDC explicitly exempted public works "conducted by Walton County." However, U.S. Magistrate Judge Charles J. Kahn, Jr. ruled in favor of the homeowners, declaring that because the initiative was designed, mandated, and heavily controlled by the federal government, it was legally *not* a project conducted by Walton County. The county was ordered to abide by its own white sand environmental standards. This legal defeat proved to property owners that county coastal policy was highly vulnerable to litigation, fueling the massive wave of easement rejections that finalized the project's demise months later.[8]

IV. The Domino Effect: Launching the Customary Use Wars

The collapse of the 2015 beach restoration project created an immediate vacuum in Walton County coastal management, setting off a direct chain reaction that birthed the Customary Use crisis.

[2015: Failed Beach Nourishment Project]

[No New Public Sand/ECL Created] + [Exploding Tourist Volume]

[Late 2016: County Passes Sweeping Customary Use Ordinance]

[Legislative Backlash: 2018 FL HB 631 / FS 163.035 Mandates Parcel Litigation]

[Multi-Year Legal Warfare: ~1,100 Beachfront Parcels File Lawsuits]

1. **The Regulatory Pivot:** Because the 2015 project failed, no fixed Erosion Control Line (ECL) was established, and no new public sand was created seaward of private boundaries. Meanwhile, tourist volume continued to explode. With tourists crowding onto dry sand that remained legally private down to the wet-sand line, property-owner friction spiked.[9]

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[7] The foundational legal boundaries establishing the protection zones along the CR-30A corridor can be cross-examined via the original **Walton County White Sand Protection Ordinance**.
[8] Following the collapse of the 2015 engineered sand initiative, the county passed a sweeping legislative ordinance in 2016 declaring broad public customary use rights. Beachfront owners successfully lobbied the state legislature to pass HB 631 effective July 1, 2018, which invalidated local customary use laws passed by ordinance and mandated a parcel-by-parcel judicial declaration process.
[9] The 1,194-Parcel Lawsuit and the 2023 Out-of-Court Settlement, *Walton County v. Alan R. Fla. Stat. § 163.035 Customary Use Complaint*, Circuit Court of the First Judicial Circuit, Walton County, FL.

2. **The Customary Use Ordinance (Late 2016):** Deprived of an engineering solution to buy or create public beach space, the Board of County Commissioners attempted a regulatory shortcut. Late in 2016, the county passed a sweeping **Customary Use Ordinance**, declaring that the public possessed an ancient, historic right to recreational use across *all* private dry sand beaches in Walton County.[10]

3. **State Legislative Intervention (2018):** Beachfront landowners viewed the ordinance as an uncompensated backdoor taking—achieving the public access goals of the failed 2015 easements through executive fiat. Homeowners lobbied Tallahassee, resulting in the passage of **House Bill 631 (Florida Statute 163.035)** in 2018. This law stripped local governments of the ability to declare customary use via broad ordinances, mandating that counties must prove customary use on a grueling, **parcel-by-parcel basis** in circuit court.[11]

4. **The 1,100-Parcel Standoff:** Bound by the state mandate, Walton County entered into a multi-million dollar, multi-year lawsuit involving over 1,100 beachfront parcels. This litigation consumed local governance, drove a deep cultural wedge into the community, and cost taxpayers millions in legal fees.[12]

V. The Current Reality: Where Walton County Stands Today

The historical trajectory set in motion by the 2015 administrative failure directly governs the legal and structural realities of Walton County today.

The Fragmented Customary Use Settlement

The legacy of the customary use battle has left Walton County's coastline highly fractured. A massive segment of the litigated properties—roughly 1,100 parcels—secured dismissals with prejudice. The courts legally affirmed that broad, recreational customary use does not exist on these lands.

Instead, highly restrictive boundaries apply, limiting the public to narrow "transitory" walking zones near the water's edge while strictly preserving the dry sand for private homeowners. While a small fraction of unrepresented parcels (roughly 95) had customary use affirmed at the circuit court level, the statutory foundation for those judgments was entirely disrupted when the Florida Legislature passed **Senate Bill 1622 (Chapter 2025-178)**, repealing the 2018 judicial

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[11] In December 2018, the county sued 1,194 beachfront parcels to judicially affirm public access. After five years of multi-million dollar litigation, the BCC approved a global settlement agreement in June 2023.

[12] Settling property owners were dismissed with prejudice, legally extinguishing broad customary use claims on their lands. In exchange, the public was granted a restricted, 20-foot "transitory zone" landward of the wet-dry sand line strictly for active transit (walking/running) between the hours of 9:00 AM and 4:00 PM.

process framework. In February 2026, the Florida First District Court of Appeal ruled that the legislative repeal effectively neutralized the legal force of those prior statutory judgments, rendering lingering appeals moot and sending beach management back to common-law frameworks.[13]

Consequently, the Board of County Commissioners approved a resolution focused on de-escalating tensions, acknowledging property rights while gently encouraging voluntary, respectful beach sharing.

The Return to Beach Renourishment

Faced with the legal finality of the customary use settlements, local policymakers—including Bagby himself in his subsequent political platforms—have been forced to admit that broad customary use is no longer a viable legal mechanism to secure public beach space across the vast majority of the county's parcels.

As a direct result, Walton County has been forced to pivot entirely back to the exact solution that failed in 2015: **comprehensive beach nourishment**. The modern strategy focuses on securing permits, mapping out sand borrow pits, and utilizing localized public access points to satisfy updated, less-stringent USACE rules.

VI. Conclusion

The current, hyper-litigated state of Walton County's beach access is the direct consequence of the administrative framework deployed during the 2015 beach restoration project. By validating the opposition's legal arguments against perpetual easements and institutionalizing a passive "No" vote policy via unreturned mail, the administration guaranteed the structural failure of the initiative.

Had the 2015 project succeeded, an Erosion Control Line would have fixed permanent public boundaries, expanding the public footprint legally and physically through engineered sand. Its collapse forced the county down a path of regulatory overreach, legislative blowback, and systemic litigation. Today, after ten years of legal warfare and millions of dollars spent, the county sits precisely where it started: recognizing that it cannot litigate its way onto private property, and that its only path forward is to resurrect the beach renourishment infrastructure that was bargained away a decade ago.

[13] 2025–2026 Legislative Repeal and Appellate Finality, *Florida Senate Bill 1622 / Chapter 2025-178, Laws of Florida* and *Walton County v. Beachfront Property Owners*, Florida First District Court of Appeal (1st DCA, 2026). The Florida Legislature passed SB 1622, completely repealing the statutory judicial process framework originally established by HB 631 in 2018. Following this, in February 2026, the 1st DCA dismissed remaining parcel-by-parcel customary use appeals as moot due to the statutory repeal. This forced the Walton County BCC to pass its subsequent resolution shifting focus away from further litigation toward property-rights compliance and a return to beach renourishment infrastructure plans.